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C O R R E C T E D C O P Y (Caption added)

E.O. 12958: DECL: 04/25/2017  
TAGS: [KJUS](#) [PREL](#) [PTER](#) [GM](#)  
SUBJECT: MUNICH PROSECUTOR DOES NOT ANTICIPATE EXTRADITION  
REQUEST IN AL MASRI CASE

REF: A. (A) BERLIN 730

[1](#)B. (B) BERLIN 765

Classified By: CONSUL GENERAL ERIC G. NELSON FOR REASONS 1.4 (B) AND (D)  
)

[1](#)1. (SBU) ConGen Munich contacted Munich Deputy District Attorney August Stern on April 24 in an effort to clarify whether the "request for provisional arrest" by his office in the Al Masri case (Ref A) would lead to a request for extradition under Article 16 of the bilateral extradition treaty between the U.S. and Germany. Stern asserted that his office was not acting under Article 16 of the treaty, as the Al Masri case was not a "case of urgency." Stern added that while the request for provisional arrest would be a prerequisite for any future request for extradition, he could only follow-up with an extradition request provided the U.S. authorities took the suspects in custody. If the U.S. authorities did not arrest the suspects -- which he said he did not/not expect they would -- he could go no further with the case. "I can only follow up with an extradition request once the suspect has been arrested," Stern told us.

[1](#)2. (SBU) Stern reiterated his view that this type of bilateral request for provisional arrest is normal legal practice since he understands the U.S. generally declines to act on international arrest warrants ("Diffusion Notices"), such as those he had already submitted through Interpol channels. Stern confirmed that the request for provisional arrest had not yet arrived with German federal authorities in Berlin, as it was still pending translation of documentation, which could take another week or two.

[1](#)3. (C) Comment: Stern's answers to our specific questions about Article 16 and the potential for an extradition request are consistent with what he had told us previously. Before he would give us a final answer, he consulted with international law experts in the Bavarian Ministry of Justice for clarification that his office's actions did in fact not fall under Article 16. We note that Stern has demonstrated a lack of familiarity with aspects of international law to us before, as he was not certain whether his office's initial request constituted a "Red Notice," or "Diffusion Notice."

[1](#)4. (U) This report has been coordinated with Embassy Berlin.

[1](#)5. (U) Previous reporting from Munich is available on our SIPRNET website at [www.state.sgov.gov/p/eur/munich/](http://www.state.sgov.gov/p/eur/munich/) .  
NELSON